



UNITED STATES PATENT AND TRADEMARK OFFICE

Mr. S-
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,853	02/20/2004	Bernard Hammond JR.	65725-0044	7668
23552	7590	08/11/2006		EXAMINER
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				SWERDLOW, DANIEL
			ART UNIT	PAPER NUMBER
				2615

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/783,853	HAMMOND, BERNARD	
	Examiner	Art Unit	
	Daniel Swerdlow	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 15 June 2006.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-7,9-11,13,15-22,24,25 and 27-39 is/are pending in the application.
 4a) Of the above claim(s) 32-39 is/are withdrawn from consideration.
 5) Claim(s) 1-7,9-11,13,15-22,24,25 and 27-31 is/are allowed.
 6) Claim(s) _____ is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 32 through 39 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
2. The crosstalk measurement method of Claims 32 through 39 has separate utility from the crosstalk compensation of Claims 1 through 7, 9 through 11, 13, 15 through 22, 24, 25 and 27 through 31 as, for example, in determining usable data rate. The crosstalk compensation of Claims 1 through 7, 9 through 11, 13, 15 through 22, 24, 25 and 27 through 31 can be practiced with other measuring methods as shown in the dependent claims. As such, the inventions are distinct.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 32 through 39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. This application is in condition for allowance except for the presence of claims 32 through 39 directed to a non-elected invention. **Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.**

The prosecution of this case is closed except for consideration of the above matter.

Allowable Subject Matter

4. Claims 1 through 7, 9 through 11, 13, 15 through 22, 24, 25 and 27 through 31 are allowable.
5. The following is an examiner's statement of reasons for allowability:
6. Applicant has incorporated matter indicated as allowable in the prior Office action into independent claims 1, 9 and 18. As such, the claims are allowable for reasons stated in the prior Office action.
7. Claims 2 through 7, 10 through 11, 13, 15 through 17, 19 through 22, 24, 25 and 27 through 31 are allowable due to dependence from their respective base claims.

Double Patenting

8. Applicant has stated intention to amend the claims in co-pending application 11/058,902 to rectify the provisional double patenting described in the prior Office action. As such, the provisional double patenting is not an obstacle to issue of the present application.

Conclusion

Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted

claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel Swerdlow
Primary Examiner
Art Unit 2615

ds
8 August 2006